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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/224,027

Applicant(s)
Giordano et al.

Examiner
Frantzy Polnvil

Group Art Unit
2768



☒ Responsive to communication(s) filed on Aug 28, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-12, 17, 24, 25, 27-32, 50, 51, and 53-57 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 25, 27-32, 50, 51, 53-55, and 57 is/are allowed.

☒ Claim(s) 1-12, 17, 24, and 56 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 8

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 2164

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12, 17, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Randelman et al. (US Patent No. 5,072,380).

As per claims 1 and 7-8, Randelman et al discloses an automatic vehicle recognition and customer billing system. The system comprises a computer based fuel dispensing system with radio frequency customer identification means for charging a customer for fuel purchased from one of a plurality of stationary dispensers located in a fuel dispensing area. Note column 1, lines 6-12. A transponder in the customer's vehicle receives and transmits signals to an antennae 2 as the vehicle approaches the fuel dispensing area. Note column 4, lines 19-36. The system creates a plurality of electromagnetic fields adjacent the dispensers with each field associated with a particular dispenser. Note column 2, lines 30-33 and 49-57. The vehicle must stop within an acceptable range of the dispensing area so that the vehicle is detected. Upon recognition and authorization of the vehicle by the antennae and controller 4, the operator activates the dispensing pump. Randelman et al does not explicitly teach the field for each side of each dispenser does not overlap with the field of the other side of another dispenser or with the fields of other dispensers.

Art Unit: 2164

Randelman discloses minimizing interferences when there are a plurality of electronic or RF sources in the dispensing pump area. Note column 2, lines 49-60 of Randelman et al. Thus, creating a plurality of stationary, independent electromagnetic fields of predetermined operable ranges adjacent the dispensers such that the field of each side of each dispenser does not overlap with the field for the other side of that dispenser or with field of other dispensers would have been obvious to the skilled artisan with the motivation of minimizing interference from the different RF sources. Note the suggestion from column 4, lines 14-18. Associating the customer identification data received by the reader with a transaction at the activated dispenser whereupon the transaction at the activated dispenser is permitted and charged to the customer according to the customer identification data is taught on column 4, lines 51-59, column 5, lines 57-65 of Randelman.

As per claim 2, Randelman et al teaches validating credit or billing information from the customer identification data read from the transponder card (column 4, line 53 to column 2, line 2) only to a valid customer account.

As per claim 3, most electronic transactions require authorization of the customer's financial data through a remote financial institution. Note also column 5, lines 18-27 of Randelman et al.

As per claim 4, note column 1, lines 48-68 of Randelman et al.

As per claim 5, note column 4, lines 19-25 of Randelman et al.

Art Unit: 2164

As per claim 6, providing account validity prior to activation of the at least one dispenser is well practiced in the art. Providing such a feature in Randelman would have been obvious to the skilled artisan with the motivation of eliminating theft or with the motivation of assuring that a given account has sufficient funds to cover a particular transaction.

As per claims 10 and 12-14, while Randelman does not expressly teach precluding billing a customer upon exceeding a predetermined time limit without activity, it does teach precluding dispensing and subsequent billing when the vehicle fails to remain within dispenser range (column 4, lines 1-5). The Examiner asserts that it would have similarly been obvious to one of ordinary skill in the art to preclude billing when the customer has failed to dispense any fuel within a predetermined time period. Such a system would encourage timely dispensing of fuel by customers and discourage parking at the dispensers since such an activity would preclude waiting customers from being able to purchase any services at the station. Randelman et al. further teaches a single notification to the user to proceed with dispensing with the notification bypassed for subsequent servicing of the vehicle (column 3, lines 30-33, column 6, line 44 to column 7, line 20).

As per claim 11, self service stations are well known to offer a plurality of payment means, and that it would have been obvious to one of ordinary skill in the art at the time of the invention to deactivate billing by transponder-provided data when the customer has expressly selected an alternate form of payment with the motivation of avoiding charging the customer more than one time for the same purchase.

Art Unit: 2164

As per claim 17, Randelman does not explicitly teach a hand-held transponder. Handheld transponders are well known in the art. Providing a hand held transponder in the system of Randelman et al would have been obvious to the skilled artisan with the motivation of providing alternate forms of payment and/or identification data.

As per claim 24, note column 5, line 55 to column 6, line 14 of Randelman et al.

3. Claims 9 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Randelman et al as applied to claim 1 above, and further in view of Van Ness (US Patent No. 4,263,945).

Claim 56 contains limitations addressed in claim 1 and these limitations are likewise rejected under a similar rationale. As per claims 9 and 56, Randelman teaches sensing the in-range status of a vehicle. Note column 2, lines 61-68. Randelman et al does not explicitly teach providing an in-range indication to the customer when the transponder is within the dispenser range. Van Ness discloses that once a vehicle transponder is in sufficient proximity to the dispenser-mounted antennae, the customer is notified that he/she may commence (Van Ness at column 5, lines 7-8 and 45-47). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Van Ness into Randelman with the proximity indication in order to inform a customer that he/she has been authorized and may begin fueling the vehicle (Van Ness at column 5, lines 30-47).

Art Unit: 2164

Response to Arguments

Applicant argues that Randelman fails to teach or suggest a way to operate their system so that fields do not overlap.

In response, Randelman clearly states minimizing interferences caused by RF sources and vehicle ignitions. While no explicitly teachings of so doing is provided by Randelman, the Examiner asserts that at the time of applicant's invention that numerous methods of minimizing interferences were well known, and one skilled in the art at the time of the invention would have found it obvious to minimize interferences caused by RF in the system of Randelman.

Applicant is directed to *In re Gershon, Goldberg, and Neiditch*, 152 USPQ 602 (CCPA 1967) where it is stated:

"Although references do not disclose or suggest the existence of applicants' problem or its cause, claims are rejected under 35 U.S.C. 103 since references suggest a solution to problem; it is sufficient that references suggest doing what applicants did, although they **do not teach or suggest exactly why this should be done**, other than to obtain the expected superior beneficial results."

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

Art Unit: 2164

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Reasons for Allowance

5. The prior art taken alone or in combination fails to teach or suggest if a vehicle-mounted transponder is determined to be within the operable range of one of the first electromagnetic fields and if a hand-held transponder is determined to be within the operable range of one of the second electromagnetic fields corresponding to the same fuel dispenser, then overriding the use of the customer identification data from the vehicle-mounted transponder so that the customer identification data from the handheld transponder may be used to process the transaction at the fuel dispenser taken in combination with a fuel dispensing method with radio frequency customer identification capabilities as recited in independent claim 25.

The prior art taken alone or in combination fails to teach or suggest a processing equipment being operable to override the use of the vehicle-mounted transponder for charging the transaction to the customer and instead allowing use of the hand-held transponder for charging the transaction to the customer when both the vehicle-mounted transponder and hand-held transponder are within the respective predetermined long range and short range of the dispensing

Art Unit: 2164

area taken in combination with a dispensing system with radio frequency customer identification capabilities as recited in independent claim 50.

The prior art taken alone or in combination fails to teach or suggest if both a vehicle-mounted transponder and a handheld transponder are determined to be within the respective vehicle fueling range and close range before the dispenser is activated, overriding the use at the dispenser of the vehicle-mounted transponder, whereupon following activation of the dispenser the hand-held customer identification data received by the reader is associated with a transaction at the activated dispenser, the transaction at the activated dispenser is permitted and charged to the customer according to the handheld transponder customer identification data taken in combination with a fuel dispensing method as recited in independent claim 55.

The prior art taken alone or in combination fails to teach or suggest if both a vehicle mounted transponder and a handheld transponder are determined to be within the respective vehicle fueling range and close range, overriding the user at the dispenser of the vehicle mounted transponder, whereupon the handheld customer identification data received by the reader is associated with a transaction at the dispenser, and the transaction is permitted and charged to the customer according to the handheld transponder customer identification data as recited in independent claim 57.

6.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil, whose telephone number is (703)

Serial Number: 09/224,027

Page 9

Art Unit: 2164

305-9779. The examiner can normally be reached on Monday through Thursday from 7:30 AM to 6:00 PM.

The fax phone number for this Art Unit is (703) 305-0040.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

FP

30Nov00


Frantzy Poinvil
Primary Examiner
Art Unit 2164